

## United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	John W. Darrah	Sitting Judge If Other than Assigned Judge	
CASE NUMBER	98 C 5450	DATE	12/12/2002
CASE TITLE	Jessie Smith vs. Kenneth R. Briley		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

## MOTION:

## DOCKET ENTRY:

- (1) ☐ Filed motion of [ use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due \_\_\_\_\_.
- (3) ☐ Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
- (4) ☐ Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5) ☒ Status hearing held.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7) ☐ Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
☐ FRCP4(m) ☐ Local Rule 41.1 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Petitioner, Jessie Smith's motion for reconsideration is denied. Enter memorandum opinion and order.
- (11) ☒ [For further detail see order attached to the original minute order.]

<input checked="" type="checkbox"/>	No notices required, advised in open court.	18000 101110 02 U.S. DISTRICT COURT CLERK 12 DEC 12 PM 1:37 07 03 0771 Date/time received in central Clerk's Office	number of notices	Document Number 56
<input type="checkbox"/>	No notices required.		DEC 13 2002	
<input type="checkbox"/>	Notices mailed by judge's staff.		date docketed	
<input type="checkbox"/>	Notified counsel by telephone.		docketing deputy initials	
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SLB		courtroom deputy's initials		

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## The Honorable John W. Darrah

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arguments that could have been heard during the pendency of the previous motion, or to present evidence that could have been adduced during the pendency of the original motion. *Publishers Res., Inc. v. Walker-Davis Publ'ns, Inc.*, 762 F.2d 557, 561 (7th Cir. 1985); *In re Oil Spill by the "Amoco Cadiz" off the Coast of France on March 16, 1978*, 794 F. Supp. 261, 267 (N.D. Ill. 1992). Movants should not use a motion for reconsideration to rehash arguments previously rejected by the court. *Sikora v. AFD Indus., Inc.*, 18 F. Supp. 841, 844 (N.D. Ill. 1998).

### **BACKGROUND**

Smith filed a petition for writ of habeas corpus against Kenneth R. Briley, Warden of Stateville Correctional Center in Joliet, Illinois, pursuant to 28 U.S.C. § 2254. After an evidentiary hearing, Respondent argued that Smith's petition should be dismissed because it was untimely and/or procedurally barred. In a Memorandum Opinion and Order dated August 28, 2002, the Court dismissed Smith's petition for writ of habeas corpus, finding that Smith's petition was untimely because Smith's post-conviction petition did not toll the one-year statute of limitations imposed by 28 U.S.C. § 2244(d)(1)(A).

Smith filed, within ten days, a Motion to Reconsider, arguing that (1) the Court's ruling that his habeas petition was untimely was incorrect under the "law of the case" doctrine as stated in *White v. Godinez*, 301 F.3d 796 (7th Cir. 2002) and (2) his habeas petition was timely filed where the Illinois Supreme Court denied his post-conviction petition on October 1, 1997.

### **DISCUSSION**

"[U]nder the law of the case doctrine, [courts] do not reopen issues decided in earlier stages of the same litigation unless [they] have a strong conviction that the earlier ruling was wrong and the party that benefitted from the earlier ruling would not be unduly harmed." *White*, 301 F.3d at

803.

A careful review of the materials submitted to the Court reveals that this argument was obliquely raised in Petitioner's reply in support of his petition for writ of habeas corpus. Although this issue was not explicitly discussed in the earlier Memorandum Opinion and Order dated August 28, 2002, the Court considered this issue at that time. "A district court is not required to specifically address [in its opinion] each and every [fact] asserted . . . ." *Shannon v. Saks & Co.*, No. 94 C 1793, 1995 U.S. Dist. Lexis 9324, at \*6 (N.D. Ill. July 3, 1995). Petitioner's motion to reconsider merely restates arguments previously rejected by the Court and, therefore, is denied. *See Sikora*, 18 F. Supp. at 844.


#### **CONCLUSION**

For the reasons stated herein, Jesse Smith's Motion to Reconsider is denied.

**IT IS SO ORDERED.**

Date:

December 12, 2002

  
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John W. Darrah, Judge  
United States District Court